

## **1998 LEGISLATION**

TO: Local Officials

FROM: Joseph J. Chessey, Jr., Deputy Commissioner  
Division of Local Services

DATE: February 1999

SUBJECT: Summary of 1998 Municipal Finance Law Changes

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To keep you informed of legislative developments during the year, the Division of Local Services publishes on a periodic basis a **BULLETIN** summarizing any new laws enacted that affect municipal budgets and local tax assessment, administration and collection. Each issue contains a cumulative summary of session laws enacted to that time and indicates whether the Division has issued or will issue any further implementation guidelines.

Attached is the **final** edition of the **1998 LEGISLATIVE BULLETIN**. It includes any legislative changes affecting municipal finance found in Chapters 1 - 487 of the Acts of 1998. **Summaries of legislation enacted since the September 1998 edition was issued begin on page 14 with Chapter 306. Any changes in or additions to the previously issued material are in boldface and underscored.**

Copies of these new laws can be obtained from the State Bookstore located in Room 116 of the State House.

## **1998 LEGISLATION**

### **Ch. 49      PUBLIC EMPLOYEES' RESERVE SERVICE**

#### **An Act Relative to Service in the Reserves by Public Employees.**

Effective June 10, 1998.

Increases the time period under which members of the military reserves employed by the Commonwealth, or one of its political subdivisions, may continue to receive regular compensation under G.L. Ch. 33 §59 from 17 to 34 days in any state fiscal year (July 1 to June 30) and not more than 17 days in any federal fiscal year (October 1 to September 30). G.L. Ch. 33 §59 is a local acceptance provision.

### **Ch. 55      SHERIFF PERSONNEL IN ABOLISHED COUNTIES**

#### **An Act Relative to Collective Bargaining for Employees of Certain Sheriffs.**

Effective June 17, 1998.

Clarifies the role of the sheriffs of abolished counties as employers for purposes of the public employee collective bargaining law. Under legislation abolishing certain counties, county correction functions were transferred to the Commonwealth, but the sheriffs were to be considered the employers of county jail or house of correction employees for collective bargaining purposes. This legislation makes clear that sheriffs will also be considered the employers of sheriff department union employees that work outside of the jails or houses of correction. In addition, it provides that once a collective bargaining agreement has been negotiated, a request for an appropriation to cover the incremental cost items must be submitted to the Governor within 30 days.

### **Ch. 59      MILLENNIUM OR CENTENNIAL CELEBRATION FUNDS**

#### **An Act Providing for Special Municipal Funds to Celebrate the Years Two Thousand and Two Thousand and One.**

Effective March 25, 1998.

Creates a new special fund into which cities and towns may appropriate funds to be used to celebrate the millennium or any centennial. Appropriations to the fund may be made in the five years before the celebration. Admission fees for commemorative ceremonies or events and proceeds from the sale of commemorative items are also credited to the fund. Interest remains with the fund. Expenditures from the fund may be made by the mayor or city manager, the selectmen, or the majority of a special committee established to plan the celebration, in the year before, year of and year after the celebration. An accounting to the treasurer is required of all expenditures after the celebration and any balance remaining is closed to the general fund.

**Ch. 64      CHILD SUPPORT ENFORCEMENT**

**An Act to Improve the Massachusetts Child Support Enforcement Program.**  
Effective March 31, 1998.

Among other child support enforcement provisions, this statute adds G.L. Ch. 32 §19C, which provides for public employee retirement benefit collection remedies. The remedies apply to annuities, retirement allowances, pensions, returns of deductions or other payments to anyone under the public retirement system. Retirement boards will be subject to liens, income withholding and direct income withholding notices and are required to comply with liens, notices and orders.

The act permits retiree assignments, and authorizes the retirement board to withhold amounts due and pay them over to the Department of Revenue (DOR). It also requires retirement boards to file reports with DOR on or before March 1 annually, including the name, address, date of birth, status and social security number of all members in the system as of December 31. Any information concerning child support is confidential.

**Ch. 78      SAFE DRINKING WATER PROJECT ASSISTANCE**

**An Act Establishing a Revolving Trust Fund to Aid in the Financing of Drinking Water Projects.**  
Effective April 9, 1998.

Establishes a state revolving trust fund and expands the jurisdiction of the Board of Trustees of the Massachusetts Water Pollution Abatement Trust (MWPAT) in order to implement a state program of financial assistance for safe drinking water projects undertaken by local governments.

The existing state Water Pollution Abatement Projects Administration Fund under G.L. Ch. 29 §2W now becomes the Water Pollution Abatement and Drinking Water Projects Administration Fund and a new Drinking Water Revolving Fund is created by G.L. Ch. 29 §2QQ. These funds will be used in order to disburse federal and state grants in the form of subsidized loans to cities, towns, districts or other local governmental entities undertaking drinking water projects required by the Federal Safe Water Drinking Act.

The trustees of MWPAT are designated as the administrators of the Drinking Water Revolving Fund and the program to provide assistance in the local financing or refinancing of eligible drinking water projects as approved by the Department of Environmental Protection (DEP). Entities receiving assistance must also generally adopt water pricing systems based on a flat rate per volume or an ascending unit rate per volume.

**Ch. 99      FY98 SUPPLEMENTAL BUDGET**

**An Act Making Appropriations for the Fiscal Year 1998 to Provide for Supplementing Certain Existing Appropriations and for Certain other Activities and Projects.**

**§§24 and 25 Middlesex County Dog Fund** Effective date retroactive to July 11, 1997. Provides that communities in abolished Middlesex County will be deemed to have accepted G.L. Ch. 140 §147A providing for the local regulation of dogs and requires them to adopt regulations under G.L. Ch. 140 §136A to 174D. Also provides that the county treasurer distribute the balance in the county dog fund to the communities.

**Ch. 101      COLLECTION OF UNEMPLOYMENT BENEFITS**

**An Act Relative to Notifying Employees of the Right to Collect Unemployment Compensation.**

Effective May 1, 1998.

Adds the requirement that every employer, including public employers, conspicuously post unemployment benefit information at each site operated by the employer. The notice must state the name, mailing address, the Division of Employment and Training (DET) identification number of the employer, instructions on how to file for unemployment benefits, the address and telephone number of the nearest regional DET office and the telephone number of the DET teleclaim information line.

Failure to post the information will result in a written warning for the first violation, a \$100 civil fine for the second, \$250 for the third and \$500 for fourth or subsequent violation. In addition, the employer is required to provide the same information in writing to any employee separated from employment as soon as practicable, but no later than 30 days. Delivery must be made in person or by mailing to the employee's last known address. The waiting period of any employee who failed to file timely and is separated from employment not having received the notification or information shall be only to the Sunday of the initial week the employee would have been eligible to receive benefits.

This act amends an earlier version and is retroactive to November 13, 1997, which is the date the earlier version was enacted.

**Ch. 109      FAMILY LEAVE**

**An Act Providing Employee Leave for Certain Family Obligations.**

Effective August 4, 1998.

Adds G.L. Ch. 149 §52D which requires certain employers, including municipalities and other local governments, to provide up to 24 hours of annual family obligation leave for eligible employees during any 12 month period. This leave is in addition to the 12 weeks already allowed under the Federal Family and Medical Leave Act.

Employees are eligible for leave if their employer had 50 or more employees working within 75 miles of the worksite of the employee requesting leave. The employee must have been employed for at least 12 months by the employer from whom the leave is requested and worked at least 1,250 hours for the employer during the prior 12 month period.

The leave may be taken to (1) participate in school activities directly related to the educational advancement of the employee's child, such as parent-teacher conferences or interviewing for a new school, (2) accompany the employee's child to routine medical or dental appointments, such as check-ups or vaccinations, or (3) accompany an elderly relative to routine medical or dental appointments or appointments for other professional services related to the elder's care, such as interviewing at nursing homes or group homes.

Seven days notice is required unless the leave is not foreseeable, in which case notice as soon as practicable is required.

The Office of the Attorney General is responsible for enforcement and may issue regulations. Violations of the act may be enforced by criminal prosecutions by the Attorney General with a fine of \$500 and civil actions by aggrieved employees, including triple damages, litigation costs and attorney's fees.

**Ch. 166      LOW INCOME ELDERLY AND DISABLED FUND**

**An Act Establishing a City or Town Aid to the Elderly and Disabled Taxation Fund.**

Effective October 7, 1998.

Adds G.L. Ch. 60 §3D, which if accepted, allows cities and towns to place a check-off on property tax or motor vehicle excise bills in order to seek contributions to a special fund to assist low income elderly and disabled persons meet their property tax obligations. Interest on the contributions

would remain with the fund. The fund could be spent without appropriation by a taxation aid committee in accordance with guidelines the committee establishes to identify recipients of aid. The committee is to be made up of the chairman of the board of assessors, the city or town treasurer and three residents to be appointed by the selectmen or mayor.

**Ch. 172      PROCUREMENT OF EDUCATIONAL SOFTWARE**

**An Act Relative to the Procurement of Certain Educational Software for Public Schools.**

Effective October 14, 1998.

Amends G.L. Ch. 30B §7(a) to allow for the sole source procurement of educational programs, courses and curricula in any media including software, newspapers, serials, periodicals, audiovisual materials or software maintenance. Previously, only library books and school textbooks could be acquired without a competitive procurement process.

**Ch. 180      FIREARM PERMIT FEES**

**An Act Relative to Gun Control in the Commonwealth**

**Effective October 21, 1998.**

**§§3 and 29. Increases the fee paid for gun permits issued by city or town police chiefs under G.L. Ch. 140 §129B to \$25 and excludes it from the provisions of G.L. Ch. 40 §22F, which generally allow local officials to adjust statutory fees. The municipality will retain 50% of each fee paid as general revenue. The balance will be paid over to the state for deposit in the Firearms Records Keeping Fund, which may be appropriated by the legislature for administrative and other costs of conducting criminal background checks of permit applicants. Previously, the entire fee was retained by the issuing community.**

**Ch. 194      FY99 STATE BUDGET**

**An Act Making Appropriations for the Fiscal Year 1999 for the Maintenance of the Departments, Boards, Commissions, Institutions and Certain Activities of the Commonwealth, for Interest, Sinking Fund and Serial Bond Requirements and for Certain Permanent Improvements.**

Effective July 1, 1998, unless otherwise noted.

**§4 Advance Local Aid.** Authorizes the State Treasurer to advance payments of FY99 local aid distributions to a city, town or regional school district that demonstrates an emergency cash shortfall, as certified by the Commissioner of Revenue and approved by the Secretary of Administration and Finance. **Informational Guideline Release (IGR) No. 98-102 issued August 1998.**

**§§66, 67 and 67A Economic Development Property Tax Exemptions.** Amends G.L. Ch. 23A to make the composition of the Economic Assistance Coordinating Council (EACC) reflect the recent reorganization of state government. The EACC is responsible for establishing economic target areas (ETAs) and economic opportunity areas (EOAs) where special property tax exemptions may be granted to promote economic development. The amendments also expand the criteria set forth in G.L. Ch. 23A §3D for qualifying as an ETA. An ETA may now include an area having an abandoned facility of at least one million square feet, or having a 200 acre site that will be used for a regional technology center with the capability of supporting three million square feet of commercial or industrial space.

**§106 Retirement Credit for Veterans** Grants veterans' preference to civil service examination takers still in military service. The individuals must prove receipt of an honorable discharge from the military service at the time of appointment to the civil service position.

**§109 Pension Increases for Certain State and Teacher Retirees.** Adds G.L. Ch. 32 §90C½, which establishes a minimum \$10,000 pension for retired teachers and state employees with at least 25 years of service.

**§114 Refinanced School Debt** Amends G.L. Ch. 44 §21A to require cities, towns and regional school districts that refinance bonds for school construction projects for which they receive school building assistance reimbursements (SBAB) to report the refinancing to the Department of Education (DOE). DOE will then recalculate the reimbursements to take into account any interest savings due to the refinancing.

**§116 to 119 Dealer Plate Excise.** Amends G.L. Ch. 60A §1 to provide for a special excise of \$100 for each special plate issued to a motor vehicle dealer payable to the city or town in which the dealership is licensed. Vehicles owned by the dealer, which are operated by the dealer, the dealer's spouse, co-owner or co-owner's spouse, or by an employee whose duties involve the sale of motor vehicles, will be exempt from the regular motor vehicle excise even if operated for personal use. Previously, such vehicles were exempt from the excise upon annual application and exclusive business use. **IGR 98-206 issued September 1998.**

**§120 Recreational Land.** Amends G.L. Ch. 61B §1 to include non-commercial youth soccer as a use for which land not less than five contiguous acres may qualify for classification as recreational land for local tax purposes.

**§126 Regional Vocational Schools Net School Spending Cap** Provides that beginning in FY99, regional vocational school districts will have their required net school spending capped at 150% of their foundation budgets. If the required net school spending exceeds that cap, then the minimum contributions of the members are to be reduced proportionately. If a community receiving a reduction belongs to another district that is below foundation, its contribution to that district is to be increased up to the amount of the reduction.

**§§130 and 432 Payment Obligation When Special Education Student Moves.** Makes a technical correction in a 1997 amendment to G.L. Ch. 71B §5 concerning which community pays for special education costs for day or residential placements when a student moves between communities during the year. Under the amendment, if the child moves into a new community on or after July 1, the sending community has to cover the costs for the remainder of the current year. If the move occurs between April 1 and July 1, however, the sending community also has to cover the subsequent year's costs. The change is retroactive to July 1, 1997.

**§152 and 196 Septic Betterments for Condominiums.** Amends G.L. Ch. 111 §127B½, which allows local boards of health to enter into agreements with property owners to contract on their behalf for the upgrading or replacement of a failing septic system and to repay the costs through annual additions to their property tax bills. Under the amendment, a board of health may enter into an agreement with an association of condominium owners if the septic system is part of the common areas and facilities. If a majority of the affected unit owners agree, all will be personally liable for the assessment and their units subject to a lien, pro-rated by their percentage interests in the common areas.

**§241 Eligibility for School Building Assistance** Amends Chapter 645 of the Acts of 1948 which provides for school building assistance (SBAB), to restrict eligibility for school projects to those cities, towns and districts that spend at least 50% of the sum of their foundation budget spending targets for utility, ordinary maintenance and extraordinary maintenance in the year prior to application for assistance. This applies to spending for fiscal years beginning in FY99. There is an exemption if SBAB payments begin before July 1, 2000 and a waiver for unanticipated or extraordinary changes in maintenance spending. The waiver is to be approved jointly by the Board of Education and Division of Local Services (DLS) and is to take into account reductions in maintenance attributable to the construction of new schools or the closing of old schools.



**§279 School Debt.** Continues the provision in the FY97 and FY98 state budgets that allows municipalities and regional school districts with SBAB priority projects to roll over their temporary borrowing for the projects for up to five years without paying down principal. It also lets municipalities and districts extend the total term of borrowing for such school projects by the length of time they had temporary debt outstanding. **IGR No. 96-102 issued August 1996.**

**§280 Retirees Health Insurance as Net School Spending** For FY99, the costs of health insurance for retired teachers will be included as part of net school spending only in those districts where the costs were included as net school spending in FY94.

**§288 Disability Pension Reform.** Provides a local acceptance Option (c) pop-up for retirees whose applications were filed prior to January 12, 1988, which was not permitted in the 1987 pension reform act (Chapter 697). That option allows a retiree to receive a higher pension if his or her spouse predeceases the retiree. Any additional benefits are prospective only, however, from the date of local acceptance. Acceptance is by majority vote of the retirement board with approval of the city council in accordance with the city charter in a city, town meeting in a town, county retirement advisory board in a county, district members of a district and the governing body of an authority.

**§293 Education Reform Waivers.** Permits cities, towns and regional school districts to apply for various adjustments in their FY99 minimum required contributions to schools under the education reform act. Municipalities may seek adjustments if (1) non-recurring revenues were used to support FY98 operating budgets and those revenues are not available in FY99, (2) they have extraordinary non-school related expenses in FY99, or (3) their FY99 municipal revenue growth factor is 1.5 times the statewide average and is deemed to be excessive. Regional school districts that (1) used non-recurring revenues in FY98 that are unavailable for FY99, or (2) received regional incentive aid in FY95 must seek waivers if a majority of the selectmen in a town, the city council in a Plan E city or the mayor in all other cities in a majority of the member municipalities requests them. Requests for waivers by municipalities may be made by the selectmen in town, the city council in a Plan E city or the mayor in all other cities. Requests for waivers must be made by October 1, 1998. If a regional school budget has already been approved by the members and a waiver is granted of any member's minimum required local contribution to the district, the use of that waiver must be approved by the selectmen, the city council in a Plan E city or the mayor in all other cities of a majority of the member municipalities. Regional school district waivers for regional incentive aid will be determined by DOE. The other waiver programs will be administered by DLS. **IGR No. 98-301 issued August 1998.**

**§295 Minimum School Aid.** Establishes the minimum amount of school aid to be distributed to each city, town or regional school district under G.L. Ch. 70 for FY99 at \$100 per pupil.

**§298 Payroll Deductions for Educational Foundations** Authorizes, if accepted, payroll deductions from salaries of city or town employees for contributions to the local educational foundation. The employee must request the deduction in writing to the municipal treasurer and may withdraw the authorization by giving the treasurer at least 30 days written notice. The treasurer is to transmit the deductions to the educational foundation directly, provided he is satisfied the treasurer of the foundation is sufficiently bonded.

**§307 Criminal Justice Training Council Costs** Continues the \$1800 fee charged to municipalities for each police recruit trained by the Criminal Justice Training Council. The fee is deducted from the community's local aid payments. The municipality is then authorized to recover the fee from the recruit's wages in 18 monthly installments, or as otherwise negotiated.

**§334 Sewer Rate Relief.** Continues program to mitigate sewer rate increases in the Massachusetts Water Resources Authority service area and elsewhere due to debt service costs for water pollution abatement and wastewater treatment projects. The amount appropriated for FY99 is \$53,914,000. Eligible debt issues are those issued after January 1, 1990, with a term over five years. All funds are to be distributed by March 31, 1999 under guidelines developed by DLS in consultation with DEP. **BULLETIN issued August 1998.**

**§349 Wetlands Protection Fees.** Continues the provision in the FY98 budget that allows the local portion of wetlands protection fees established by G.L. Ch. 131 §40 to be spent by the conservation commission without appropriation. Any expenditures must be for the administration or enforcement of the wetlands protection act and must be approved in writing by the mayor, city manager in Plan E cities, the selectmen or town manager in towns adopting a town manager form of government. **IGR No. 98-101 issued February 1998.**

**§406 Procurement of Internet and Computer Networks.** Establishes alternative procurement procedures for state and local governmental entities seeking to design, construct and install technology infrastructure for schools and libraries, including electrical upgrades and other necessary construction work, being financed in whole or in part with funds from the Universal Service Fund administered by the Federal Communications Commission.

**§420 Term of Water Pollution Abatement Loans.** Provides that MWPAT may make loans to local governmental units for water pollution abatement projects for up to 30 years, but that total assistance cannot exceed the amount of contract assistance that would have been paid if the loan had been made for a 20 year period. This makes an exception to the provisions of G.L. Ch. 29C §6 under which no contract assistance can be provided on account of debt service payments due more than 20 years from the first principal payment on the loan. Communities will not lose assistance by choosing to finance a project over 30 years, but they will not qualify for the extra financing costs attributable to that decision.

## **Ch. 198      INSURANCE HOLDING COMPANIES**

**An Act Relative to the Reorganization of Certain Insurance Companies.**  
Effective July 31, 1998.

Adds new sections to the insurance laws authorizing the formation of domestic mutual insurance holding companies and provides for state taxation of those companies. Under the act, mutual insurance holding companies will be treated as business corporations subject to the corporate excise rather than insurance premium taxes. However, the holding companies are not subject to the tangible personal property component of the corporate excise.

As business corporations, these companies will be taxable locally on machinery used in the conduct of business, not just on machinery used in manufacture or in supplying and distributing water.

## **Ch. 203      PRO-RATA ASSESSMENT OF NEW CONSTRUCTION**

**An Act Relative to the Taxation of Certain Real Property**  
Effective October 29, 1998.

Adds G.L. Ch. 59 §2D, which allows cities and towns that accept it to make a pro rata assessment on the value of certain improvements to real estate for which an occupancy permit was issued after January 1. The assessment would be calculated by applying the tax rate to the value of the improvement and prorating that amount over the remainder of the fiscal year after the permit was issued. If the permit is issued between January 1 and June 30, an assessment is imposed for the following fiscal year as well. The assessment would be payable at the same time as regular property tax bills. Taxpayers could also apply for abatements and appeal in the same manner as for property tax assessments.

Also provides for the abatement of property taxes whenever a parcel of real estate loses 50% or more of its value after January 1 due to fire or other natural disaster.

Acceptance of the statute requires approval of the voters. The selectmen or city council with the approval of the mayor may submit a prescribed referendum question to the voters at any municipal election. A majority of the voters must vote yes for the question to pass.

**BULLETIN regarding acceptance issued October 1998 Guidelines on implementation will also be issued.**

## **Ch. 206**

### **CLEANUP OF BROWNFIELDS**

#### **An Act Relative to Environmental Cleanup and Promoting the Redevelopment of Contaminated Property.**

Effective August 5, 1998.

Makes changes in the state environmental law regarding oil and hazardous material prevention and abatement, G.L. Ch. 21E, regarding the liability of certain innocent parties in order to encourage the cleanup and redevelopment of contaminated properties (so-called "brownfields"). Also provides financial incentives, including tax credits, loans and grants, to promote clean-up activities.

**§33 Property Tax Obligations.** Adds G.L. Ch. 59 §59A, a local option provision, which if accepted, allows cities and towns to enter into agreements with certain eligible owners or operators of sites from or at which there has been a release of oil or hazardous material regarding the abatement of outstanding interest and penalties and payment of real estate taxes on the site in order to continue the clean-up and redevelopment of the site. Eligible owners or operators are those defined in G.L. Ch. 21E §2 as not causing or contributing to the release and not owning or operating the site at the time of the release. Agreements are to include terms regarding the amount owed, the rate of interest to accrue, amount of monthly payments, payment schedule, late penalties and other obligations agreed to by the parties. Agreements are to be signed by the chair of the city council or board of selectmen and property owner, notarized and attested to by the city or town clerk. A copy must be provided to the state DEP, federal Environmental Protection Agency and Commissioner of Revenue, in addition to the city council or board of selectmen and property owners.

**Ch. 236      PROMPT PAYMENT OF WAGES**

**An Act Relative to the Payment of Wages.**

Effective November 5, 1998.

Amends G.L. Ch. 149 §§148 and 148A to provide the same penalties for late payment of wages as those for prevailing wage violations. It provides a criminal penalty up to a \$10,000 fine or six months in a house of correction for a first offense and up to \$25,000 or one year for a second. It provides a civil alternative with fines of up to \$25,000, but with limitations for first timers and those without any specific intent to violate those laws.

**Ch. 252      EARLY INTERVENTION PROGRAMS**

**An Act Relative to Early Intervention Programs of Injured Public Employees.**

Effective November 5, 1998.

Amends G.L. Ch. 32 §§5B, 8(2) and 20 to change the early intervention for injured retired employees program by removing retirement boards as officers responsible for administering it. It also eliminates retirement investment as the funding source for implementing the program.

**Ch. 272      UPDATING MOTOR VEHICLE REGISTRATION INFORMATION**

**An Act Authorizing the Registrar of Motor Vehicles to Update Address Information.**

Effective November 8, 1998.

Replaces G.L. Ch. 90 §26A and authorizes suspension or revocation of license or registration of an operator or owner of a motor vehicle for failure to report within 30 days any change of name or address. It also authorizes the Registrar of Motor Vehicles to use reasonable information sources to update such records. DOR may only release the name and address of a taxpayer if the Registrar seeks information from the Commissioner. Municipal excise, insurance company and United States Postal records are specifically mentioned as reasonable sources. The statute authorizes sending of official notices to only one address, provided it was obtained from the registrant or a reasonable source.

**Ch. 293**

**CAPE COD OPEN SPACE LAND BANK**

**An Act Relative to the Establishment of the Cape Cod Open Space Land Acquisition Program.**

Effective August 11, 1998, with local provisions effective upon acceptance.

Establishes a Cape Cod Open Space Land Acquisition Program with membership open only to the 15 towns of Barnstable County. The aim of the program is the preservation of open space and the protection of water supplies and natural resources, including wildlife, aquifers, marshes, wetlands, beaches, dunes, coastal lands, forests and recreational lands.

Participation in the program by a town would require the approval of a prescribed referendum question by a majority of the voters at the 1998 biennial state election in November. If a town votes not to participate at that time, its voters may vote on the matter of participation again at an annual town election two years after the effective date of the land bank bill, or in any two years thereafter.

The selectmen or town council of participating towns would appoint a Town Open Space Committee to make recommendations to town meeting or town council regarding specific purchases.

The acquisitions would be funded from monies in a special fund designated as the Land Bank Fund. The primary source of funding would be an excise equal to 3% of the real estate tax assessed on each parcel of taxable real estate within the town. Amounts generated by the excise would not be subject to the levy limitations of Proposition 2½. A second source of funding would come from grants from a state Cape Cod Land and Aquifer Protection Fund to be administered by the Secretary of Environmental Affairs. An initial appropriation of \$15 million was made to the state fund from which grants of an amount equal to 50% of the excise collected by a town for the previous fiscal year will be made. Finally, towns are authorized to borrow (general obligation bonds or notes in anticipation of the state grants) in order to fund acquisition.

**Ch. 300**

**ABOLITION OF HAMPSHIRE, ESSEX AND BERKSHIRE COUNTIES**

**An Act Abolishing the County Governments of Hampshire, Essex and Berkshire Counties, and Transferring Essential County Functions to the Commonwealth.**

Effective August 13, 1998.

Abolishes county governments of Hampshire, Essex and Berkshire Counties (defined as "abolished counties") and transfers certain county functions to the Commonwealth. Hampshire county government is abolished as of January 1, 1999, Essex County as of July 1, 1999 and Berkshire County as of July 1, 2000, or earlier if the Commissioner of Revenue certifies that the particular county has failed to make a payment as due on a bond or note. The transfer of functions will also occur on those dates, except for Hampshire county where the transfer will be effective as of September 1, 1998.

The legislation generally makes valid debts, obligations, leases and contracts of the abolished counties those of the Commonwealth. Assets (including land, buildings, courthouses, registries of deeds, jails and houses of correction) and revenues (including the deeds excise under G.L. Ch. 64D) become the property of the Commonwealth, and the Commonwealth assumes certain functions, duties and responsibilities of counties (including operation of the county jails and houses of correction, registry of deeds and courthouses).

There are provisions limiting the Commonwealth's liability for certain debts in Hampshire County. In addition, certain Hampshire County leases and contracts, and ownership of certain assets, would remain with the Hampshire Council of Governments should such a council be organized to provide regional services to communities within the county.

The Essex County Agricultural and Technical Institute would become a Horace Mann charter school under the operation of a seven member board of trustees. The trustees are to be appointed by the Governor and must be residents of Essex County. The school would be under the general supervision of DOE, with its budget approved by the state Board of Education.

In order to recover the amounts expended for county debts and other liabilities, the Secretary of Administration and Finance must establish an amortization schedule to assess the member cities and towns for an amount not to exceed the county tax assessed for the fiscal year immediately prior to the abolition date, to be paid annually over a period of not less than 10 years.

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## **Ch. 306      COST OF LIVING ADJUSTMENTS FOR CONTRIBUTORY RETIREES**

### **An Act Relative to Cost of Living Adjustments.**

Effective August 20, 1998.

Allows local retirement boards to grant a cost of living adjustment (COLA) to contributory retirees under G.L. Ch. 32 §103 for FY99 at any time during the fiscal year, retroactive to July 1, 1998.

**Ch. 456      COST OF LIVING ADJUSTMENTS FOR NON-CONTRIBUTORY RETIREES**

**An Act Relative to Granting Cost of Living Adjustments to Non-contributory Retirees.**

Effective April 14, 1999.

Adds G.L. Ch. 32 §103(h), which if accepted, provides for payment of a COLA to non-contributory retirees, their spouses and beneficiaries in the same amount and at the same time as contributory retirees receive a COLA. Acceptance is by majority vote of the city council in accordance with the city charter in a city, town meeting in a town, county retirement board advisory council in a county, district members of a district and the governing body of an authority. Such adjustments may apply to COLAs made on or after July 1, 1998.

Also adds G.L. Ch. 32 §4(1)(o½), which if accepted, allows a city or town library trustee who served without compensation to receive creditable service in the municipal retirement system as if the person had received \$2,500 in annual compensation during the period of service. The employee must pay into the annuity savings fund the amount which would have been paid if the employee had actually received that compensation, with interest. Acceptance is by majority vote of the city council in accordance with the city charter in a city or annual town meeting in a town.

**Ch. 463      MILLENNIUM OR CENTENNIAL CELEBRATION FUNDS**

**An Act Making Certain Corrective Changes in Certain General and Special Laws.**

Effective January 14, 1999.

**§43 Millennium or Centennial Funds.** Codifies as G.L. Ch. 40 §5H, the special fund for the celebration of the millennium or any centennial that was established by Chapter 59 of the Acts of 1998 (see above).

**Ch. 485      TAX REFORMS**

**An Act Reforming the Tax Laws of the Commonwealth.**

Effective January 1, 1999.

Makes various reforms in state tax laws designed to promote consistent, accurate and timely tax administration and customer service, including establishing time standards for the Appellate Tax Board to decide state and local tax appeals.



**§2 Appellate Tax Board Proceedings .** Makes several amendments to G.L. Ch. 58A, which establishes the Appellate Tax Board, including its jurisdiction and procedures. Amendments that apply to local property tax appeals include provisions under G.L. Ch. 58A §8 that permit the board with the consent of the parties to use alternative dispute resolution methods including mediation and arbitration. Under that same section, the board now has the power to dismiss an appeal if the taxpayer refuses to allow the assessors, or their attorneys, experts or other agents, to inspect the property before a hearing on the appeal.

As a general rule, the board is now required by G.L. Ch. 58A §13 to decide cases it hears within three months of the close of the record, including submission of briefs, or within six months if the case is officially recorded. It must also issue a requested findings of fact and report with three months of the request, although it may extend that deadline for up to another three months upon notice to the parties. Further extensions are allowed in extraordinary cases, or with the consent of the parties. Failure of the board to meet these time standards does not affect the validity of its decision.

**§3 Payment of Tax.** Amends G.L. Ch. 59 §64 to make the requirement of paying a real estate tax without incurring interest in order to maintain an appeal on an abatement application apply only where the tax is more than \$3,000 on the parcel. Previously, that requirement applied when the tax was more than \$2,000.

**§§2 and 4 Settlements.** Amends G.L. Ch. 58A §6 and Ch. 59 §64 to allow assessors to enter into a final settlement of a property tax abatement application in the three month period for taking an appeal where the assessors actually denied the application. Previously, taxpayers whose applications were denied had to timely file an appeal before a settlement could be reached because the assessors' power to settle during the appeal period was limited to cases of deemed denied applications.

Last Act: Chapter 487 enacted on January 5, 1999 and signed on January 15, 1999.